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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,029	03/05/2002	Richard F. Pedersen	4232P2394	3874

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

EXAMINER

REIS, TRAVIS M

ART UNIT PAPER NUMBER

2859

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,029

Applicant(s)

PEDERSEN, RICHARD F.

Examiner

Travis M Reis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claims 2-4 objected to because of the following informalities:

In line 1 of each claim, "Said" should be ---The---.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4, 5, 8, & 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Schroeder (U.S. Patent 6511112).

Schroeder discloses a tape measure magnet (38) and method for retrieving metallic objects from a distance comprising the steps of providing a spring loaded tape measure (24) having an extendable tape (30) housed inside a metal casing (28) (col. 3 lines 32-33), said tape has a first end (64) having a tab (58) coupled thereto; providing a magnet having a tab coupling side (62) and an attracting side (42), said tab coupling side is dimensioned to be coupled to said tab of said first end of said tape and said metal casing dimensioned to inherently receive said attracting side of said magnet so that said magnet can be retained in a fixed position relative to said metal side of said

casing when said attracting side of said magnet is brought into proximity with said metal side of said casing (Figures 5 & 6) (Abstract), said attracting side of said magnet has sufficient attractive force to retain metal objects (22) in a fixed position relative thereto when said metal objects are brought into proximity with said attracting side of said magnet (Figure 1); extending said first end of said tape; bringing said magnet into proximity with a metal object so that said magnet is able to retain said metal object in a fixed position relative thereto; and retracting said first end of said tape to fetch said metal object to said casing of said tape measure (col. 2 lines 24-34).

4. Claims 1 & 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Arcand (U.S. Patent 6115931).

Arcand discloses a tape measure magnet (108) comprising a spring loaded tape measure having an extendable tape (43) inside a casing (30), said tape has a first end (42) having a tab (70) coupled thereto (Figure 1); and a magnet (97) having a screw (73) dimensioned to be coupled to said tab by a threaded aperture (76) defined therein of said first end of said tape, said attracting side of said magnet inherently having sufficient attractive force to retain metal objects in a fixed position relative thereto when said metal objects are brought into proximity with said attracting side of said magnet.

5. Claims 1 & 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Poineau et al. (U.S. Patent 6442863).

Poineau et al. discloses a tape measure magnet (14) comprising a spring loaded tape measure having an extendable tape (10) inside a casing, said tape has a first end having a tab (11) coupled thereto (Figure 1); and a magnet (14) having a prong (16) dimensioned to be coupled to said tab by a slot (17) defined therein of said first end of

said tape, said attracting side of said magnet inherently having sufficient attractive force to retain metal objects in a fixed position relative thereto when said metal objects are brought into proximity with said attracting side of said magnet.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Arcand (U.S. Patent 6115931).

Schroeder discloses all of the instant claimed invention as stated above in the rejection of claims 1 & 5 but does not disclose providing a screw to couple said magnet to said tab by a threaded aperture defined therein; and screwing said screw of said tab coupling side of said magnet into said tab to secure said magnet to said tab.

Arcand discloses a tape adapter with interchangeable brackets, wherein those brackets (i.e. a magnetic bracket (108)) are screwed to said tape end tab (70) via screw (73) coupled to threaded aperture (76) (Figures 2 & 20) so a user can quickly modify the tape (col. 3 lines 38-39). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to replace the tab coupling means disclosed by Schroeder with the screw tab coupling means disclosed by Arcand so a user can quickly modify a tape and since the screw tab coupling means claimed by Applicant and the tab coupling means used by Schroeder are well known alternate

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types of tab coupling means which will perform the same function, if one is replaced with the other, of fastening the magnet to the end tab.

8. Claim 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Poineau et al. (U.S. Patent 6442863).

Schroeder discloses all of the instant claimed invention as stated above in the rejection of claims 1 & 5 but does not disclose providing a prong coupled to said tab coupling side of said magnet and dimensioned to be coupled to said tab by a slot defined therein; and coupling said prong of said tab coupling side of said magnet into said tab to secure said magnet to said tab.

Poineau et al. discloses a tape measuring device with a prong (16) on said attachment (12) and a slot (17) in said tab (11) wherein the tab couples (16) to said slot and tab (Figure 3) so that a friction fit will hold the attachment securely in place (col. 3 lines 61-67). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to replace the tab coupling means disclosed by Schroeder with the prong tab coupling means disclosed by Poineau so that a friction fit will hold the attachment securely in place and since the prong tab coupling means claimed by Applicant and the tab coupling means used by Schroeder are well known alternate types of tab coupling means which will perform the same function, if one is replaced with the other, of fastening the magnet to the end tab.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maksim discloses a tape measure with a magnetized portion (U.S. Patent 3281943). Makar discloses a tape measure with a magnetic attachment


(U.S. Patent 4827622). Tursi discloses a tape measure device with a magnet (U.S. Patent 4924597). Leore discloses a tape measure attachment (U.S. Patent 5421100). Choi discloses a combination tape measure and light bulb (U.S. Patent 5544420). Jacobs discloses a pattern developing tool with a magnet (U.S. Patent 6223443). Stenger discloses a self holding tape measure (U.S. Patent 6370790). Asakura et al. discloses a deflection measuring tape with a magnet (JP 406281401). Nishimura discloses a tape measure with a magnet (JP 359120902).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (703) 305-4771. The examiner can normally be reached on 8:00--5:00 Monday--Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8160 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

tmr
May 15, 2003